

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Amendment of the Commission's)
Rules and Policies to Increase) CC Docket No. 95-115
Subscribership and Usage of the)
Public Switched Network)

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COMMENTS OF THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

The Competitive Telecommunications Association ("CompTel"),¹ by its attorneys, hereby comments on the Notice of Proposed Rulemaking ("Notice") in the above-captioned proceeding, FCC No. 95-281, released July 20, 1995. The Notice proposes to increase telephone subscribership by adopting measures designed to extend service to previously unserved persons and retain subscribers who otherwise might drop off the network or have their telephone service disconnected for nonpayment of interstate telephone charges.

At the outset, CompTel would emphasize its support for the Commission's overall goal of adopting all reasonable and feasible measures to increase subscribership to the public switched telecommunications network. If accomplished efficiently, increased subscribership will benefit all parties -- subscribers, the public, local exchange carriers ("LECs") and interexchange carriers ("IXCs") -- through more ubiquitous service at lower prices. In furtherance of that goal, CompTel supports the FCC's

¹ CompTel is the principal industry association of the nation's competitive interexchange telecommunications carriers, with approximately 150 members including large nationwide carriers and scores of smaller regional carriers.

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initiatives for increasing subscribership levels efficiently, such as by unbundling local exchange from interexchange service, modifying carriers' deposit policies accordingly, and encouraging the offering of services that limit interstate usage through preset monthly charges or minutes of use.

At the same time, the Commission's goal should not be to increase subscribership levels at any cost. The Commission must be careful to avoid measures which increase subscribership by unduly burdening other network users and service providers. The Commission's mandate under Section 1 of the Communications Act is not only to promote universal service (Notice at ¶¶ 2-3), but to do so "efficient[ly]" and "with adequate facilities at reasonable charges." See 47 U.S.C. § 151. For the reasons given below, CompTel submits that the Commission should table its proposal to prohibit LECs from disconnecting a subscriber's local exchange service for failing to pay lawfully incurred and owing interstate charges.

**I. THE COMMISSION SHOULD NOT ADOPT A RULE PROHIBITING
LECS FROM DISCONNECTING SUBSCRIBERS FOR NONPAYMENT
OF LAWFULLY INCURRED AND OWING INTERSTATE CHARGES**

There are numerous reasons why it would disserve the public interest for the Commission to adopt a policy prohibiting LECs from disconnecting local exchange service for subscribers who do not pay lawfully incurred and owing interstate charges. The Commission's goal is to identify "narrow, targeted solutions" (Notice at ¶ 3) for increasing subscribership among the unserved. In particular, the Commission is seeking to promote increased

subscribership among "certain geographic areas and among certain demographic groups" (Notice at ¶ 1) which currently lag the national average. The Commission has proposed several salutary approaches which are targeted at increasing subscribership among specific population groups.² However, a rule prohibiting LECs from disconnecting subscribers who fail to pay interstate charges is neither narrow nor targeted. It would benefit those who do not need assistance -- subscribers who can pay their interstate charges but choose not to -- along with those who genuinely need assistance. Instead of prohibiting LECs from disconnecting local service for nonpayment of interstate charges, the Commission should focus upon other mechanisms which are more narrowly targeted to the causes of low subscribership among specific geographic and demographic groups.

In addition, the proposed rule would increase, perhaps dramatically, the incidence of nonpayment of interstate charges by subscribers who pay their bills today. Under the proposed rule, every subscriber could have "one free bite at the apple" by incurring interstate charges which they do not have to pay in order to retain local exchange service. Indeed, unscrupulous subscribers could "game" the system by jumping from one IXC to another without paying their bills, secure in the knowledge that, even if caught, they would not lose their local exchange service.

² Those approaches include unbundling local exchange and interexchange service, modifying carriers' deposit policies accordingly, and encouraging the offering of services that limit interstate usage through preset monthly charges or minutes of use.

Currently, no reliable mechanisms exist to protect IXC's adequately from being victimized by such rogue behavior.³ Even honest subscribers who normally pay their interexchange bills today may be tempted to find other uses for their available financial resources if they know that nonpayment will not jeopardize their local exchange service. Disconnection for nonpayment of interexchange charges is a necessary incentive to encourage subscribers who now pay their interexchange bills to continue doing so and to discourage unscrupulous subscribers from gaming the system.

Further, the proposed rule would increase the bad debt expense which IXC's and their ratepayers must absorb.⁴ In effect, the IXC's and their paying subscribers would have to cross-subsidize the offering of service to subscribers who refuse or otherwise decide not to pay their bills. CompTel submits that building cross-subsidies into IXC's' rate structures is economically inefficient and contrary to the Commission's well-established "cost causation" policy.⁵ As the Commission has

³ Ironically, the Commission's well-intentioned proposal to sponsor greater efforts to educate consumers (Notice at ¶¶ 46-52) could result in more subscribers becoming aware of the potential for "gaming" the system if the Commission adopts a policy against disconnecting local subscribers for nonpayment of interstate charges.

⁴ It is no answer to suggest that IXC's pursue collection actions against individual non-paying subscribers. In many cases, the cost of prosecuting such actions more than outweighs the likely recovery, if any, from the subscriber.

⁵ The Commission has long endorsed the "cost causation" principle whereby users of common carrier services should be responsible for the costs they actually cause. E.g., MTS and

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noted, "[a]ny method of recovery that shifts some of the cost of . . . a person's line to other persons imposes an inequitable burden upon the persons who pay those costs".⁶ To the extent subsidies are appropriate to increase subscribership levels, they should be removed from IXC's rate structures and implemented through external funding mechanisms. It would be a large step in the wrong direction for the Commission to reverse course and adopt rules with the effect of forcing IXCs and their customers to incur a much larger bad debt expense in the pursuit of increased subscribership.

Lastly, adopting a rule prohibiting disconnection for nonpayment could undercut the Commission's other, more targeted solutions. Subscribers who experience some difficulty paying their monthly interexchange charges would be logical candidates for one of the limited service options, such as preset limits on monthly charges or minutes of use. However, if those subscribers know that they can retain local exchange service even if they fail to pay their interexchange charges, they would be more likely to

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WATS Market Structure, 93 FCC 2d 241, 401-02 (1983) ("costs should be assigned to the cost causer in order for society to best utilize its resources"); id., 97 FCC 2d 682, 686 (1983) ("[t]he concept that users of the local telephone network should be responsible for the costs they actually cause is sound from a public policy perspective and rings of fundamental fairness"); In the Matter of Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards, 8 FCC Rcd 4478, 4482 (1993) (Second Report and Order) ("in general, the Commission's policy is that the costs of providing a service should be borne by the cost causers").

⁶ See MTS and WATS Market Structure, 97 FCC 2d 834, 838 (1984) (Second Reconsideration Order).

accept the status quo rather than trying one of the limited interexchange service options. Further, if those subscribers fall behind on their interexchange bills, even the limited service options may no longer be available to them and those subscribers would be relegated to local exchange service only. In those cases, the Commission's proposed rule would have the adverse effect of reducing interstate subscribership where it is not necessary to keep subscribers on the public switched network and diverting subscribers away from the limited interexchange service offerings which may be the best solution.

The Commission should focus upon the solutions which respond to the specific causes of the problem of unacceptably low subscribership among certain population groups. As the Notice states (at ¶¶ 10, 12 & 14), the principal problem is that certain subscribers are unable to control their usage of interexchange services to conform to their budgetary limitations. For such subscribers, new services limiting interexchange usage to preset limitations is the most cost-effective and targeted way of increasing subscribership without imposing undue burdens upon other network users and service providers. The Commission should not force the industry and paying subscribers to shoulder the substantial burdens of a broader rule prohibiting LECs from disconnecting local subscribers for nonpayment of interstate charges.

**II. PROHIBITING LECs FROM DISCONNECTING LOCAL SERVICE
FOR NONPAYMENT OF INTERSTATE CHARGES WOULD BE
INEFFECTIVE IN THE MAJORITY OF STATES AND
REDUNDANT IN STATES WHICH ALREADY HAVE SUCH A RULE**

In most states, the proposed rule prohibiting LECs from disconnecting local subscribers for nonpayment of interstate charges would be ineffective due to limitations on the Commission's jurisdiction. As proposed in the Notice (at ¶ 12), the rule would apply only to the disconnection for the nonpayment of interstate charges. It would not affect the current practice in many states of disconnecting local subscribers for nonpayment of intrastate interexchange charges. The limited nature of the Commission's proposed rule makes it inherently ineffective. In many cases, the same subscriber who has unpaid interstate charges will also have unpaid intrastate interexchange charges. Therefore, unless the state also prohibits disconnection of local exchange services for nonpayment of interexchange services, the Commission's proposed rule would be ineffective in protecting non-paying subscribers against losing local service.

Further, in those states which do prohibit LECs from disconnecting local subscribers for nonpayment of interexchange charges, the applicable policy generally applies to all interexchange service, both intrastate and interstate. For those states, the adoption of similar rules or policies by the Commission would be redundant. As the Notice recognizes (at ¶ 28), the Commission decided in 1986 to defer to state regulatory authorities with respect to the practice of disconnecting local service for nonpayment of interstate charges. CompTel submits

that such a policy continues to make sense and that the Commission should not try to supplement or supersede state practices with its own rules applicable solely to interstate services.

Conclusion

For the foregoing reasons, CompTel submits that the Commission should table its proposed rule prohibiting LECs from disconnecting local subscribers for the nonpayment of lawfully incurred and owing interstate charges.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Regina Alston, hereby certify that I have caused a copy of the foregoing "Comments of the Competitive Telecommunications Association" to be served on this 27th day of September, by U.S. mail, first class postage, upon the following:

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